



Community Development
39550 Liberty Street
Fremont, CA 94538

ZONING ADMINISTRATOR



General Order of Business

1. Preliminary (Call to Order – 2:00 p.m.)
2. Public Hearing Items
3. Adjournment

Addressing the Zoning Administrator

Any member of the public may speak on any item under review by the Zoning Administrator after “being recognized” by the Zoning Administrator. After the Zoning Administrator recognizes you, state your name and address. Generally, after the item is introduced, the order of presentation begins with staff introduction and presentation. The project applicant or their authorized representative may then comment. Next, interested members of the public may speak. Additional comments by the applicant or staff, as appropriate, may follow. At the close of testimony, the matter will return to the Zoning Administrator for discussion and action.

General Information

The Zoning Administrator usually holds hearings on the first and third Mondays of each month, except September (9/15 only). Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the Planning Division (510) 494-4440.

Plans and other supporting documents are available at the Development Services Center at 39550 Liberty Street (between Stevenson Boulevard and Walnut Avenue). Plans and other supporting documents may be viewed any day until noon the day of the meeting. Copies will be provided at cost when feasible. The Development Services Center is open 8:00 a.m. to 4:00 p.m., Mondays through Thursdays; and 8:00 a.m. to 12:00 p.m., Fridays.

We appreciate your interest in the conduct of your City’s business. Information about the City or the items discussed in this report may be referred to:

Zoning Administrator
City of Fremont
Planning Division
39550 Liberty Street, P.O. Box 5006
Fremont, CA 94537-5006
Telephone: 510-494-4440

City Staff
Barbara Meerjans, Zoning Administrator

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AGENDA
ZONING ADMINISTRATOR PUBLIC HEARING MEETING 2:00 P.M.
CITY OF FREMONT, CALIFORNIA
39550 LIBERTY STREET
RANCHO HIGUERA CONFERENCE ROOM

June 15, 2009

1. PRELIMINARY

1.1 CALL TO ORDER

2. CONSENT CALENDAR - None

NOTICE: ITEMS ON THE PUBLIC HEARING CALENDAR MAY BE MOVED TO THE CONSENT CALENDAR IF NO ONE IS PRESENT TO SPEAK ON THE ITEMS. ALL APPLICANTS AND INTERESTED PERSONS ARE ADVISED TO BE PRESENT AT THE START OF THE MEETING.

3. PUBLIC HEARING ITEMS

Item 1. FREMONT CHRISTIAN SCHOOL – 4785 HANSEN AVENUE – (PLN2009-00078) – to consider a Zoning Administrator Permit for a Dwelling Group to allow five residential units on an approximately 32,000 square foot lot, replacing seven existing legal non-conforming residential units located in the Centerville Planning Area. A Mitigated Negative Declaration has been prepared and circulated for the project in accordance with the requirements of the California Environmental Quality Act (CEQA).
Project Planner – Susan Summerford, (510) 494-4543, ssummerford@fremont.gov

Recommended Action: Approve, based on findings and subject to conditions.

Item 2. EMC AUTO CENTER – 41041 ALBRAE STREET – (PLN2009-00216) – to consider a Zoning Administrator Permit for a retail auto sales (by appointment) located within an existing building in the Industrial Planning Area. This project is categorically exempt from the California Environmental Quality Act (CEQA) per Guideline 15301, Existing Facilities.
Project Planner – Terry Wong, (510) 494-4456, twong@fremont.gov

Recommended Action: Approve, based on findings and subject to conditions.

4. ADJOURNMENT

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ZONING ADMINISTRATOR PERMIT

STAFF REPORT

JUNE 15, 2009

Project: **FREMONT CHRISTIAN SCHOOL DWELLING GROUP - (PLN2009-00078)**

Proposal: To consider a Zoning Administrator permit for a residential dwelling group.

Recommendation: Approve, based on findings and subject to conditions.

Location: 4785 Hansen Avenue in the Centerville planning area.
APN 501-0455-0310-00
(See aerial photo next page)

Area: 3 buildings totaling 5,076 square feet proposed on a 0.69-acre lot

People: First Assembly of God, Applicant & Property Owner
Crisi Matthews, Valley Permit Services, Agent of Applicant
Susan H. Summerford, Staff Planner (510) 494-44543;
ssummerford@fremont.gov

Environmental Review: A Mitigated Negative Declaration was previously prepared and circulated for this project.

General Plan: Residential Low 5-7 DU/AC

Zoning: R-1-6

EXECUTIVE SUMMARY:

The applicant is requesting a Zoning Administrator Permit to allow the construction of a residential Dwelling Group. The project site is a 0.69 acre parcel that is currently in use as a residential site at a legal non-conformity density, with seven units. The project involves demolition of the existing units and construction of two duplexes and one single family residence. The two new duplexes are proposed to be 1,728 square feet each structure, and the single family home is proposed to be 1,620 square feet; all are one story. Covered parking for the units will be provided on the south side of the parcel, adjacent to the private street and townhome development to the south. Guest parking is along the same side, but is separated from the resident parking by a mature redwood tree, which will be retained. The project proposal includes a landscaped common open space. Staff recommends approval of the project based on findings and subject to conditions.



Figure 1: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: 3 single family homes, R-1-6
- South: Townhome Development, Residential Low 5-7 DU/AC
- East: Fremont First Assembly of God campus
- West: UPRR line

BACKGROUND AND PREVIOUS ACTIONS:

The First Assembly of God Church and School located on adjacent parcels to the north and east of the subject site purchased the property at 4785 Hansen Avenue in 2001. Since then, teachers, visiting clergy and a site caretaker have inhabited the residences, which were built prior to the incorporation of the City of Fremont. As such, the residences are legal non-conforming in that they exceed current standards for allowable density. The development of the parcel with residences that meet density standards is possible with a residential dwelling group through the Zoning Administrator process, which allows for a cluster of residences that meet the standards of the underlying zoning of the site. Staff has worked with the applicant to ensure that the proposal meets City standards for residential dwelling groups, per FMC Section 8-2141.3.

PROJECT DESCRIPTION:

The subject site is currently in use as a legal non-conforming residential cluster, exceeding the allowable density for the R-1-6 zone in which it is located. The applicant proposes to demolish the existing 7 homes and replace them with 5 new ones. Two duplexes and one single family residence are proposed on a 0.69 acre lot. The nature and use of the site will not change and will still be compatible with the R-1-6 designation that governs and surrounds it, however, the buildings will be newer, safer and in compliance with all standards and requirements of current City codes.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Residential Low 5-7 DU/AC. The proposed project is consistent with the existing General Plan land use designation for the project site because no change to the General Plan designation is proposed. The following General Plan Goal is applicable to the proposed project:

LAND USE GOAL H-1: CONSERVATION AND ENHANCEMENT OF EXISTING
RESIDENTIAL NEIGHBORHOODS.

Analysis: The subject site is located in an established residential neighborhood and has been in use as a residential site for approximately 60 years. The proposal does not seek to change that designation, but is rather an enhancement of existing housing stock.

Zoning Regulations:

As set forth in Section 8-2603.1 of the Fremont Municipal Code (FMC), residential dwelling groups are allowed in the R-1-6 district subject to a Zoning Administrator permit.

Site Planning:

The proposed development is located in the north central portion of the City, approximately half a mile northeast from the I-880 freeway. Bounded to the south by the arterial street, Blacow Road, the

proposed residential cluster will be oriented to Hansen Avenue, from which it takes access. The majority of uses along Hansen Avenue are residential, however, the First Assembly of God church and school campus share a rear and portion of the north boundary and also has a Hansen Avenue frontage both immediately to the north and further north towards Cabrillo Drive. The proposed project is associated with the church and school in that the former residents of the site and future residents of the new dwellings will be individuals and families with either employment through or enrollment in the school and church.

The proposed five-unit dwelling cluster consists of three separate structures that are all oriented to the north boundary of the site and proposed a twenty foot setback from Hansen Avenue. A 24 foot wide drive aisle from Hansen Avenue connects the site with the existing street network and provides emergency and fire vehicle access. A fire turnaround and hammerhead is proposed between the duplexes and the single family residence. The entry aisle from Hansen Avenue includes a security gate that is accessed by fire and emergency vehicles by a Knox box. Residents will have a remote control to open and prevent queuing in the street.

Architecture:

The proposed product type for the dwelling group is a pre-fabricated unit that can be generally described as contemporary craftsman-inspired. The applicant is proposing a number of upgrades and embellishments that will serve to create a more presentable and attractive look to the units. Included in the proposed additions are entry porches with peaked roofs and exterior columns and roof overhangs. Construction materials include hardiboard and composition shingle roofs. The duplexes are two bedrooms each and measure just less than 900 square feet each. The single family home is three bedroom and approximately 1,620 square feet.

Open Space/Landscaping:

The proposed design necessitates the removal of one 30" diameter redwood and preserves one 22" diameter redwood tree. The preserved redwood is in a prominent location that will provide a benefit to all residents of the dwelling group. Additionally, 21 trees are proposed to be planted onsite. Street trees are not required or proposed due to the narrow configuration of the lot and the conflict with existing overhead utilities. The proposed design provides for two semi-private and two public open spaces areas. The design team is still working with staff to further enhance these areas. The proposed landscape design is sensitive to water conservation and maintenance concerns by specifying plants well suited to the Fremont microclimate, selecting appropriate sized plants for the available space and employing an efficient automatic irrigation system that meets with best management practices as specified by the IA Water Management Committee.

Parking:

FMC Section 8-22003 lists the requirements for parking for all uses in the City. The parking requirement for the current proposal is calculated by bedroom and dwelling type. All units proposed are two bedroom or larger, which means 1.5 parking spaces per unit and 0.5 spaces per unit for guest parking, or $2 \times 5 = 10$ spaces total. 10 spaces are being provided on site, and one accessible space is also being provided, for a total of 11 spaces, 5 of which will be covered.

Circulation and Street Improvements:

The proposed development is located on Hansen Avenue, which is defined as a residential collector street in the General Plan Transportation Chapter. The section of Hansen upon which the subject site fronts is an undivided, two lane road. The posted speed limit is 35 mph. The alignment of this roadway is fairly straight and flat. There is a railroad track that runs alongside Hansen on the southeast side of this segment of the road and there is no development on that side of the roadway. There is parking and sidewalk only on the northwest side of Hansen Avenue. A one-way stop is located on Hansen Avenue at Blacow Road. Hansen carries approximately 2,120 vehicles per day in the segment of the street between Blacow and Yolo Terrace, which is to the north of the subject site. No increase in traffic is anticipated by the development of this site. The proposed project triggers the City of Fremont's street improvement ordinance for right-of-way improvements to current standards. It is anticipated that street improvements will be installed on both sides of Hansen Avenue.

The proposed project triggers the City of Fremont's street improvement ordinance for right-of-way improvements to current standards. The following outlines the street improvement requirements for this project:

- Hansen Avenue is a two lane residential collector street with an existing 55-foot right-of-way width. No right-of-way dedication is required; however, street improvements are required to provide a 39-foot curb to curb pavement width. Required street improvements include but are not limited to: removal of the existing curb, gutter, sidewalk & driveway along project frontage; removal of portion of existing pavement along railroad frontage; installation of a new curb, gutter, sidewalk, driveway entrance along project frontage; installation of new pavement, curb and gutter along the railroad frontage; revising existing signage and striping along project frontage as necessary; and grinding and overlay as directed by the City Engineer.

On-site vehicular and pedestrian access is provided by a 24-foot wide driveway from Hansen Avenue. The proposed on-site drive aisle terminates to the west and north in an alternate hammerhead style turnaround. Parking for the proposed residences is located centrally in two bays along the drive aisle.

Grading & Drainage:

Grading for the project consists of creating level building pads for each of the proposed pre-fabricated buildings on the north side of the drive aisle. Roof runoff will be collected by overland drainage swales and drained into the main drive aisle through curb drains under the sidewalk. The drive aisle and parking bays are cross-sloped to drain away from the buildings to the south and into the in-ground flow-through planters through curb openings. Overall, the project is graded to provide a positive overland release to Hansen Avenue.

The applicant's engineer estimates the site grading to involve 360 cubic yards of cut and 465 cubic yards of fill resulting in approximately 105 cubic yards of import. Since the total grading quantity of 825 cubic yards is less than 1000 cubic yards, a Preliminary Grading Plan is not required.

Urban Runoff Clean Water Program:

The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in storm water runoff and into the public storm drain system. This project is required to comply with the NPDES permit by incorporating treatment measures into the project design. The project intends to meet the quantitative storm water treatment requirements by constructing two in-

ground flow-through planters or bio-retention areas along the southern edge of the property. The storm water treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to building permit approval.

Geologic Hazards:

The project site is within an area of potential liquefaction on the official Seismic Hazard Zone maps, released by the State Geologist. In accordance with the State law, the project geotechnical engineer will have to prepare a seismic hazard report. The project improvements and building construction will conform to the recommendations of the seismic hazard report. This report will be reviewed and approved by the City and filed with the State Geologist prior to issuance of a building permit.

Applicable Fees:

This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. The developer is entitled to a development impact fee credit based on demolition of existing structures on site. All applicable fees shall be calculated and paid at the fee rates in effect at the time of building permit issuance.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration have been prepared for this project. The environmental analysis identified concerns regarding potential impacts relating to noise. The Draft Mitigated Negative Declaration includes mitigation measures, which, if implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

Mitigation measures:

Mitigation Measure #1

Prior to the issuance of a building permit, a qualified acoustical engineer shall verify that the final project design details adhere to preliminary construction techniques and recommended mitigation measures for openings and wall assemblies as outlined in the Illingworth & Rodkin noise study and summarized as follows:

- Buildings 1 through 5 require some form of noise insulation to meet interior average and maximum instantaneous noise level limits.
- Approximately 40 dBA of exterior to interior noise reduction would be required for Buildings 1 and 2 to meet the City's maximum interior noise level standard of 50 dBA Lmax in bedrooms. Preliminary calculations indicate that these buildings would require windows with a minimum rating of 40-42 STC.
- Preliminary calculations indicate that Building 3 would require windows with a minimum rating of 32-34 STC, and that Buildings 4 and 5 would require windows with a minimum rating of 26 STC.
- Preliminary calculations indicate that all buildings would also require a suitable form of forced-air mechanical ventilation, satisfactory to the local building official, to allow occupants the option of controlling noise by maintaining the windows closed.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 291 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on June 3, 2009. A Public Hearing Notice was published by *The Tri-City Voice* on June 3, 2009.

ENCLOSURES:

Exhibits:

- Exhibit "A" [Mitigated Negative Declaration](#)
- Exhibit "B" [Findings and Conditions](#)
- Exhibit "C" [Site plan, floor plans, elevations, landscape plans](#)

Informational Items:

1. [Initial Study](#)
2. [Applicant statement](#)

RECOMMENDATION:

1. Hold public hearing.
2. Find that the Mitigated Negative Declaration and mitigation measures for the project as identified in the body of the report, as well as included as Informational Item #1 reduces the projects' effects on the environment to non-significant levels, once incorporated.
3. Find the proposed residential dwelling group is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use and Housing Chapter as enumerated within the staff report.
4. Approve Fremont Christian School Dwelling Group, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

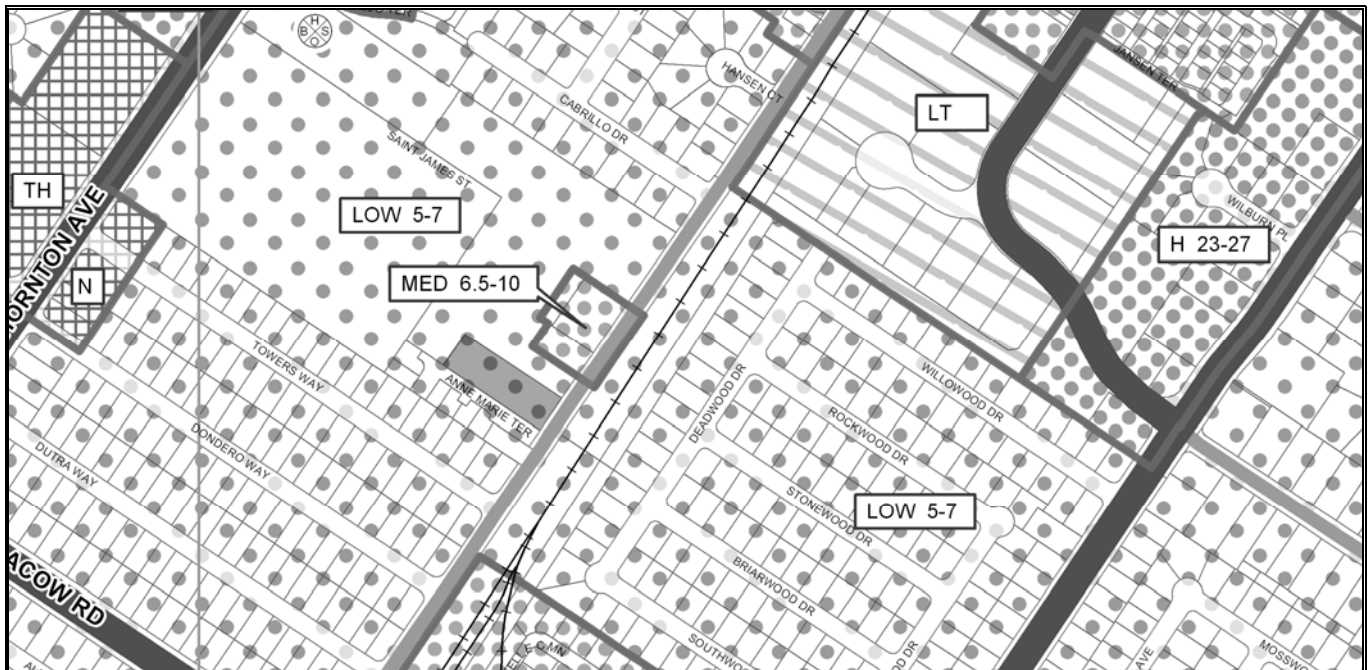


EXHIBIT “B”
Findings and Conditions of Approval
For PLN2009-00078, Fremont Christian School Dwelling Group
4785 Hansen Avenue

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Zoning Administrator dated June 15, 2009, incorporated hereby.

Zoning Administrator Permit Findings:

- a. The proposed use is consistent with the general plan because the proposed project meets the density standards of the general plan designation for the site and no changes area proposed;
- b. The site is suitable and adequate for the proposed use because it is a continuation of a residential use that meets all sizing, setback and parking requirements for the R-1-6 dwelling group zoning designation;
- c. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because it is not anticipated to increase the number of trips or vehicles to and from the site;
- d. The proposed use would not have a substantial adverse economic effect on nearby uses because the subject site is located in a residential area and is a residential proposal that generates no economic activity;
- e. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because the proposal is a residential development that meets current requirements for density, use, and site development standards;
- f. The proposed design is compatible with adjacent uses within the district and the surroundings of the proposal because the proposed dwelling group is one story bungalow type houses that are typical of the surrounding R-1-6 zone.

CONDITIONS OF APPROVAL:

- 1) The proposed project allows a dwelling group that consists of two duplexes and one single family residence that shall substantially conform to Exhibit “A” (Development Plans), except as modified by conditions herein.
- 2) Minor deviations to the approved plans as shown in Exhibit “A” may be permitted, subject to the review and approval of the Zoning Administrator.
- 3) On site parking shall be for residents and guests only.

- 4) No exterior additions to the residential structures, including the addition of pre-manufactured sun rooms and patio covers, shall be permitted.
- 5) Manufactured residences shall be similar in appearance and materials to surrounding residences including a variety of roof forms and covered main entries.
- 6) The carport is subject to design review during building permit process. The design and materials should match the proposed residences
- 7) Any additional fencing shall be included with building permit plans. Private and common open space areas should be indicated on site plan.
- 8) The project shall be subject to all City-wide development impact fees. These fees may include, but are not limited to, park dedication in-lieu fee, fees for fire protection, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance.
- 9) Final plans for the project shall be submitted to the Building Permit with Site Plan and Architectural Review for review to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code.
- 10) The applicant shall meet all requirements of the currently adopted edition of the California Building, Fire, and City of Fremont Municipal Codes and local ordinances in effect at the time of building permit application.
- 11) The fire sprinkler system shall meet the requirements of an N.F.P.A. 13 system, complying with local amendments.
- 12) All pre-fabricated dwellings installed with a sprinklers system at manufactures site will require permits for the underground fire line. The permit will require proof of supplying a 2 head calculation or purchase units without sprinklers and meet the local requirements of a 2 head calculation when under 5000 square feet for a single family or duplex dwelling. The Covered Parking shall be sprinklered. When ordering the sprinkler systems the applicant shall complying with local amendments Residence sprinkler heads shall be used in the dwelling/guest portions of the building. The sprinkler system shall provide protection to at least all of the following areas garages, carports, bathrooms, concealed spaces, water heater/furnace rooms, closets, laundry rooms, attic spaces, under walks, or overhangs, balconies or deck greater than four feet in depth, floor landings if wholly or partial enclosed, covered guest carports or other areas as required.
- 13) Provide an Emergency Vehicle Access Easement. A copy of the recorded easement shall be provided to the Fire Department.
- 14) The applicant shall have a key box (Knox brand) located outside of gates and provide keys to the Fire Department so they may gain access. Vehicle gates shall use Knox lock or keyed over-ride switch. Gates shall also have an infrared receiver installed. Applications can be obtained at Fire Administration office, 3300 Capital Ave, Fremont, CA, phone # 510-494-4200.

- 15) The on site hydrant is not required.

GENERAL REQUIREMENTS

- 16) Building address is to be plainly legible and visible from the public street. These numbers shall contrast with their background.

FIRE SAFETY DURING CONSTRUCTION

- 17) The applicant shall provide a 20 ft wide all weather-paving surface (paving) for emergency vehicle access within 150 feet of all construction or combustible storage. This access shall be provided before any construction or combustible storage will be allowed.

HAZARDOUS MATERIALS REQUIREMENTS

- 18) The applicant shall comply with the provisions of the permits required from any state or regional agencies, including, but not limited to, the Bay Area Air Quality Management District (BAAQMD), Regional Water Quality Control Board (RWQCB), Union Sanitary District's (USD) POTW and the Alameda County Department of Environmental Health.

Prior to Issuance of Building Permit

- 19) The applicant shall apply for and obtain an encroachment permit for all improvements within the public right-of-way and public service or utility easements. The encroachment permit shall be obtained prior to issuance of the building permit.
- 20) The developer shall install street improvements for Hansen Avenue across the project frontage. Hansen Avenue is a residential street, with a right-of-way of fifty-five feet and a pavement width of thirty nine feet. Required street improvements include, but are not limited to: removal of the existing curb, gutter, sidewalk & driveway along project frontage; removal of existing pavement along east side of Hansen as required; installation of a new curb, gutter, sidewalk, driveway entrance; installation of new pavement, curb & gutter along the east side; and installation of new signs and striping as necessary.
- 21) The existing 25-foot wide easement for ingress and egress shall be quitclaimed. The applicant or owner shall provide evidence that the easement has been quitclaimed by including a copy of the recorded quitclaim deed or a new title report showing no easement or encumbrances.
- 22) An Emergency Vehicle Access Easement (EVAE) shall be recorded for the benefit of the City of Fremont by a separate instrument to the satisfaction of Fire Prevention Division.
- 23) A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.

- 24) The applicant shall provide an erosion control plan, as part of the project plans, subject to review and approval by the City Engineer.
- 25) Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
- 26) A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
- 27) The applicant shall submit a detailed geotechnical report. The report shall include recommendations regarding pavement sections. The project plans shall be designed in accordance with the required geotechnical report. Grading shall be supervised by an engineer registered in the State of California to do such work.
- 28) The Project Geotechnical Engineer shall be retained to review and approve the final grading plans and specifications prior to permit issuance.
- 29) The minimum drainage slope in vegetated swales shall be 1.5%, when constructed with a subdrain system. Minimum 2% drainage slope shall be used if no subdrain is installed. Minimum requirements are subject to revision by the City Engineer upon receipt and review of soil drainage data from the project geotechnical engineer.
- 30) The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer. Drainage calculations shall be submitted with the grading and drainage plans for the project.
- 31) The project storm drain system shall conform to City standards and shall be subject to review and approval of the City Engineer and the Alameda County Flood Control and Water Conservation District. Drainage calculations shall be submitted with the grading and drainage plans for the project.
- 32) Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.
- 33) All new utility service connections, including electrical and communications, shall be installed underground. Electrical transformers shall be installed in underground vaults within an appropriate utility easement or public service easement.
- 34) The provided Storm Water Control Plan is approved in concept only. Final approval is subject to the developer providing the necessary plans, details, and calculations that demonstrate the plan complies with the Alameda Countywide NPDES Municipal Stormwater Permit, subject to City Engineer approval prior to recording the final map.
- 35) Waste handling requirements are included in the City of Fremont Waste Handling Guidelines document, attached in electronic form. Applicant will be responsible for incorporating these

guidelines into the site plan. This information is available on the City's website at:
www.fremont.gov/Construction/SolidWasteRegulations/default.htm

- 36) There must be enough access for garbage trucks to conveniently access and service the trash enclosure. Staff will work with the applicant at building permit stage to devise an acceptable design.
- 37) Any type of residential dwelling unit should include a minimum of six (6) cubic feet for indoor temporary storage of garbage and recyclable material (i.e., under the kitchen sink or in a pantry, etc.). At least three (3) cubic feet (undivided) should be provided for storage of garbage and three (3) cubic feet (undivided) for recyclables.
- 38) Prior to the issuance of a building permit, a qualified acoustical engineer shall verify that the final project design details adhere to preliminary construction techniques and recommended mitigation measures for openings and wall assemblies as outlined in the Illingworth & Rodkin noise study and summarized as follows:
 - Buildings 1 through 5 require some form of noise insulation to meet interior average and maximum instantaneous noise level limits.
 - Approximately 40 dBA of exterior to interior noise reduction would be required for Buildings 1 and 2 to meet the City's maximum interior noise level standard of 50 dBA Lmax in bedrooms. Preliminary calculations indicate that these buildings would require windows with a minimum rating of 40-42 STC.
 - Preliminary calculations indicate that Building 3 would require windows with a minimum rating of 32-34 STC, and that Buildings 4 and 5 would require windows with a minimum rating of 26 STC.
 - Preliminary calculations indicate that all buildings would also require a suitable form of forced-air mechanical ventilation, satisfactory to the local building official, to allow occupants the option of controlling noise by maintaining the windows closed.
- 39) Screening elements and/or appropriate landscaping shall be provided for all ground-level mechanical/utility equipment and appurtenances.
- 40) The existing 22" diameter redwood tree shall be preserved as part of the development.
- 41) The design team will work with staff to finalize the planting and irrigation design.
- 42) The design team will work with staff to add site amenities in the open space areas. Open space areas shall be fully accessible.
- 43) The design team shall revise the site plan so that the trash enclosure can be screened with planting on three sides.
- 44) All planting areas containing trees shall be free of all Utility Structures (including light standards) and other built features consistent with the spacing requirements under condition number three and City Standard Detail LSD-5, City Standard Street Tree Clearances.

- 45) Landscape Plans shall be coordinated with the Civil Plans to provide compliance with C3 standards for storm water treatment through landscape features.

DEMOLITION/CONSTRUCTION STAGE:

- 46) During the demolition, and again during construction, 100% of the asphalt/concrete must be reused or recycled, and at least 50% of the remaining debris generated from the project must be reused or recycled. Applicant should review the Builders' Guide to Reuse & Recycling booklet to help identify potential service providers and recycling facilities.
<http://www.stopwaste.org/docs/buildersguide-05.pdf>
- 47) The applicant must submit a City of Fremont Waste Handling Plan prior to beginning any demolition or construction. The Waste Handling Plan must be received and reviewed by Environmental Services before any permits are issued.
- 48) During construction and demolition, the applicant may contract with any recycling company licensed to do business in Fremont for salvage or recycling of separated construction and demolition materials. Separated material destined for recycling may not contain more than 10% by weight of solid waste or other non-recyclable material (FMC IV, Ch 2, 4-2303).
- 49) Plant and tree debris should not be mixed with other wastes. Plant and tree debris should be chipped on site or taken to a grinding/composting or fuel facility. It is illegal to dispose of plant debris in an Alameda County landfill.
- 50) The contractor must ensure that trash (non-recyclable construction and demolition debris) is removed from the site by one or more of the following ways (FMC IV, Ch 2, 4-2300):
- a. Contacting the City's franchised waste hauler, Allied Waste Services, to arrange for use of debris box containers for all municipal solid waste to be landfilled;
 - b. Removal from the premises by the construction or demolition contractor, using their own equipment and vehicles, as part of a total construction, remodeling or demolition service offered by that contractor.
- 51) Within 30 days of completion of the work, the applicant must file a Waste Disposal & Diversion Report documenting actual diversion and disposal of construction and demolition debris, along with receipts or weight tags.
- 52) The applicant must immediately notify the Fremont Fire Department, Hazardous Materials Unit of any underground pipes, tanks or structures; any suspected or actual contaminated soils; or other environmental anomalies encountered during site development activities. Any confirmed environmental liabilities will need to be remedied prior to proceeding with site development.
- 53) Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on

an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:

- a. Monday-Friday, 7 a.m. to 7 p.m.
- b. Saturday & Holiday, 9 a.m. to 6 p.m.
- c. Sunday, no construction activity allowed

54) This zoning administrator permit shall be subject to revocation by the Zoning Administrator at such time as any of the following are found to exist:

- a. Conditions of approval, including state or local standards of operation, have not been fulfilled;
- b. The use has resulted in a substantial adverse effect on the health and/or general welfare of users of adjacent or proximate property;
- c. The use has resulted in a substantial adverse impact on public facilities or services.

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ZONING ADMINISTRATOR PERMIT

STAFF REPORT JUNE 15, 2009

Project: EMC AUTO CENTER – (PLN2009-00216)

Proposal: To consider a Zoning Administrator Permit to allow indoor retail automotive sales (by appointment), for up to five vehicles within an existing auto repair facility.

Recommendation: Approve, based on findings and subject to conditions.

Location: 41041 Albrae Street
APN 531-240-29-1
(See aerial photo next page)

Area: 21,342 square foot building on a 2.29 acre lot.

People: Mazi Ghorbani, Applicant and Owner
Terry Wong, Staff Planner (510) 494-4456; twong@fremont.gov

Environmental Review: The proposed project is categorically exempt under guideline 15301 of the California Environmental Quality Act as it relates to existing facilities.

General Plan: General Industrial

Zoning: G-I, General Industrial

EXECUTIVE SUMMARY:

The applicant is requesting approval of a Zoning Administrator Permit to allow automotive sales for up to five cars at an existing auto repair facility. All sales will be conducted by appointment only. All vehicles for sale will be stored in a showroom and garage structure on the site. The proposed hours of operations will be from 8:30 a.m. to 5:30 p.m., daily. Staff recommends approval of the Zoning Administrator Permit subject to the conditions of approval.

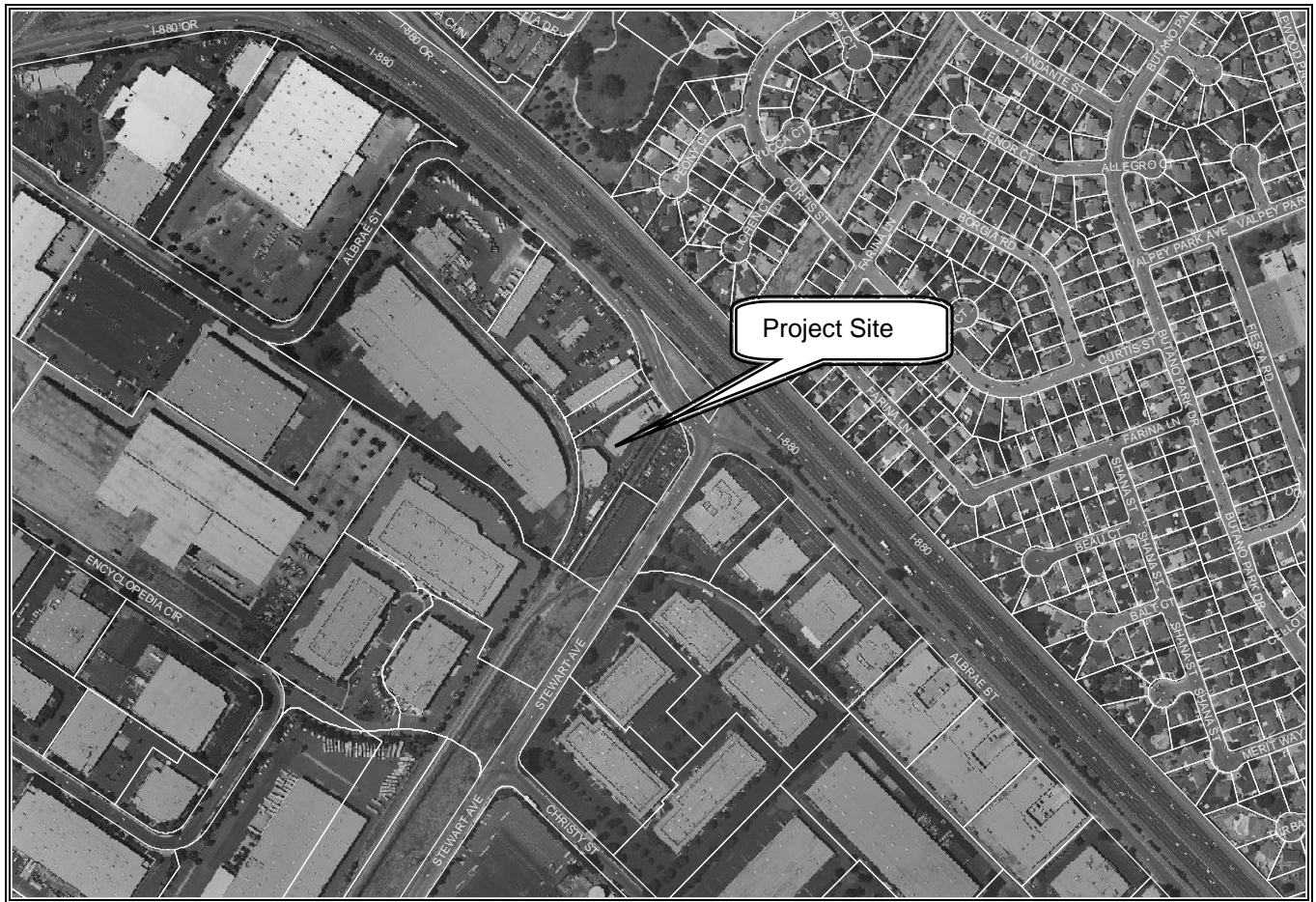


Figure: Aerial Photo (2006) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

North:	General Industrial
South:	General Industrial
East:	Interstate 880
West:	General Industrial

BACKGROUND AND PREVIOUS ACTIONS:

The subject site contains a three-building facility built in 2002 as an automotive repair facility specializing in body repairs and painting of vehicles. The company has been in Fremont since 1982.

PROJECT DESCRIPTION:

The applicant requests approval to operate an indoor automotive sales business for up to five display vehicles at the proposed location. Sales of the vehicles will be conducted inside the office lobby area located at the front of the facility, and within a garage located at the rear of the property by appointment only. The vehicles for sale will not be displayed outside of the building. The proposed hours of operations are from 8:30 a.m. to 5:30 p.m. seven days a week.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is General Industrial. The proposed project is consistent with the existing General Plan land use designation for the project site because it is reserved for industrial uses and other compatible uses may be allowed subject to discretionary approval. The following General Plan Goals, Objectives and Policies are applicable to the proposed project:

FUNDAMENTAL GOAL F-9: A large, diversified industrial and commercial base to meet the employment needs of the City's present and future workforce.

Analysis: The proposed automotive sales use provides diversity to the industrial area to meet the employment needs of the City's present and future workforce.

Policy LU 3.2: The following list of allowed uses for each industrial designation is descriptive rather than fully inclusive. Other uses may be allowed which achieve the intent of the General Plan as described in the Goals and Objectives and other development policies. Residential uses are not allowed in any area designated for industrial land use.

General Industrial: Warehouse retail and large-scale, regional retail and amusement uses are permitted as a conditional use on sites with convenient freeway access and where the proposed commercial use is compatible with the purpose of the industrial area.

Analysis: The subject business has convenient access from the freeway and is located near other automotive, industrial and commercial uses.

Zoning Regulations:

As set forth in Section 8-21604(I)(1) of the Fremont Municipal Code (FMC), Automotive sales, retail when use is indoor and sales by appointment or auction only are allowed in the existing G-I; General Industrial district subject to a Zoning Administrator Permit and in conformance with the applicable provisions including in Article 25.5.

The proposed use of the subject property for automotive sales, retail, when use is indoor and sales by appointment or auction only; would comply with the current zoning of the site, subject to the Zoning Administrator Permit.

Parking:

Per Section 8-22003(3)(b) of the Fremont Municipal Code (FMC) requires five parking spaces plus one for each eight hundred square foot floor area in excess of three thousand square feet. The subject buildings total 21,342 square feet in area with approximately 1,200 square feet of display area for the cars, 48 parking spaces are required. There are a total of 70 parking spaces, including accessible spaces on site.

Environmental Review:

The proposed project is categorically exempt under guideline 15301 of the California Environmental Quality Act as it related to existing facilities as the site is currently built and no external changes are proposed.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 45 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on June 3, 2009. A Public Hearing Notice was published by *The Tri-City Voice* on June 3, 2009.

Staff did not receive any comments regarding the proposed project as a response to the mailed notices.

ENCLOSURES:***Exhibits:***

Exhibit "A" [Site plan and floor plan](#)

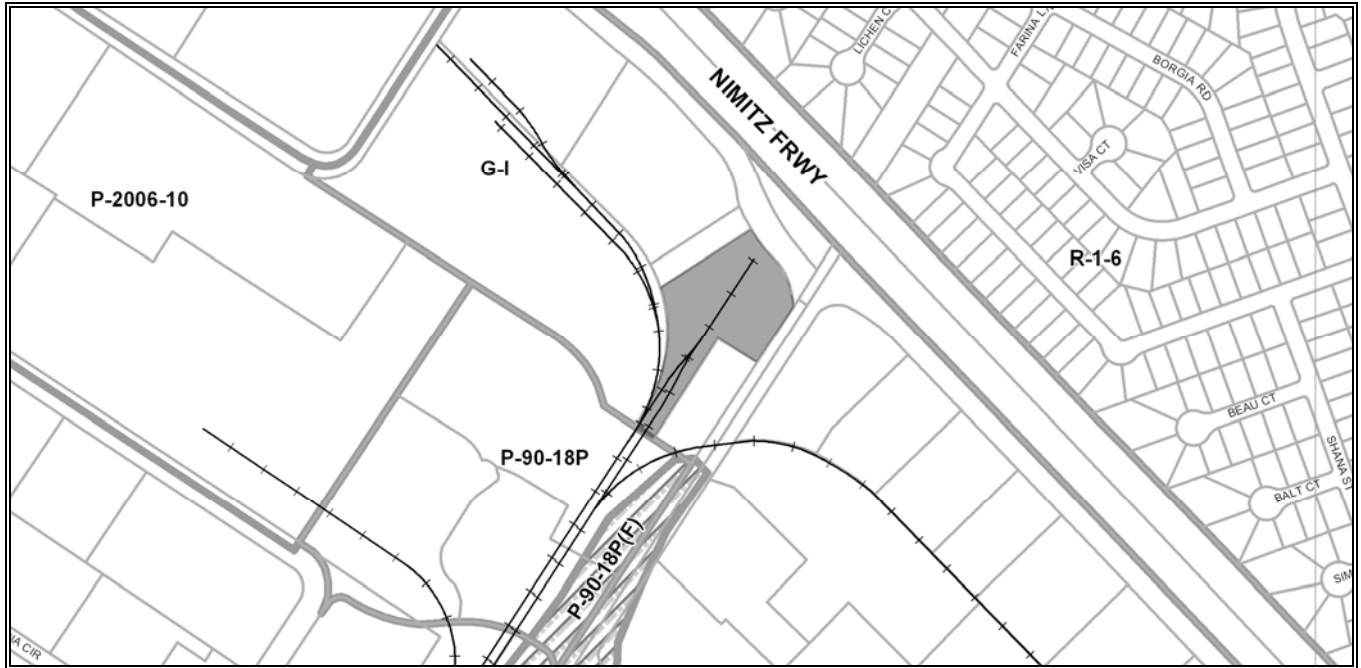
Exhibit "B" [Findings and conditions of Approval](#)

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under guideline 15301 because it is an existing facility and no changes are being proposed.

3. Find PLN2009-00216 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives and policies set forth in the General Plan's Land Use Chapter as enumerated within the staff report.
4. Approve PLN2009-00216, as shown on Exhibit "A", subject to findings and conditions in Exhibit "B".

Existing Zoning



Existing General Plan

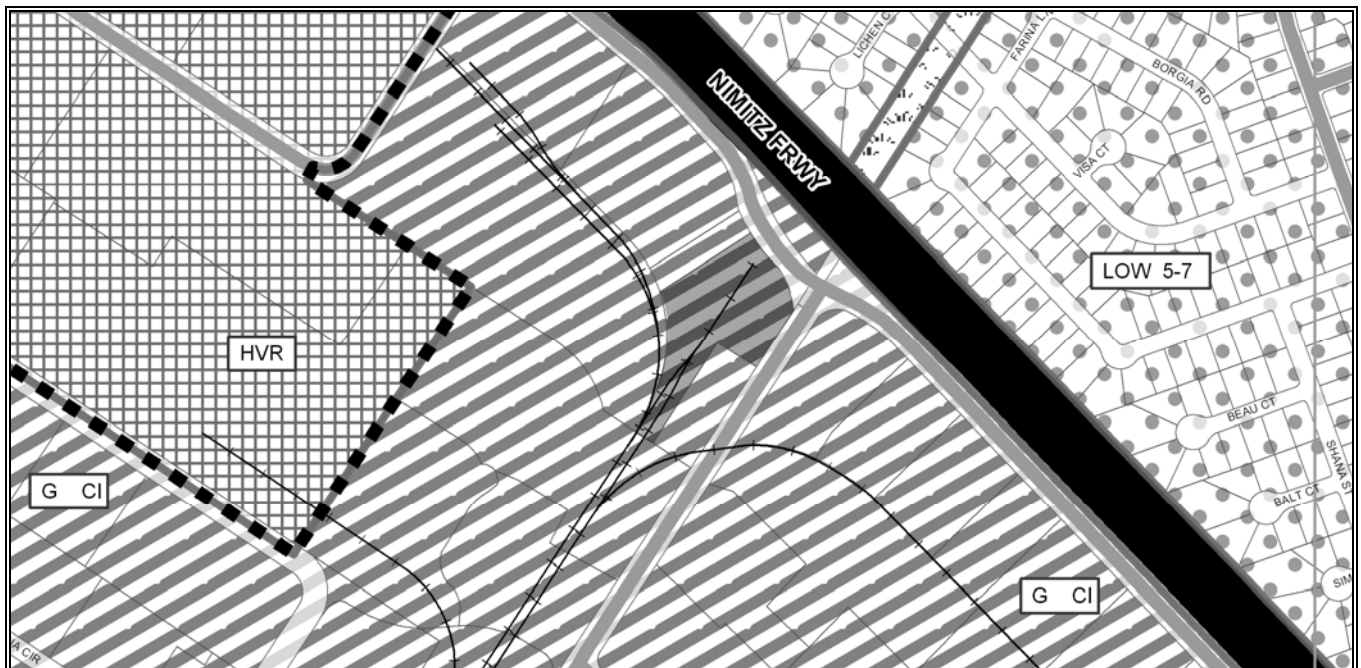


EXHIBIT “B”
Findings and Conditions of Approval
For PLN2009-00216, EMC AUTO CENTER Zoning Administrator Permit
41041 Albrae Street

FINDINGS:

The findings below are made on the basis of information presented at the public hearing and contained in the staff report to the Zoning Administrator dated June 15, 2009, incorporated hereby.

Zoning Administrator Permit Findings:

- a. The proposed use is consistent with the General Plan because the indoor automotive sales contributes towards diversifying industrial and commercial base to meet the employment needs of the City’s present and future workforce and is consistent with Land Use Policy LU 3.2 in that automotive related uses could be allowed in a General Industrial area subject to discretionary review;
- b. The site is suitable and adequate for the proposed use because the proposed location of the facility is compatible with the surrounding area. There will be a maximum of five vehicles on display at any given time inside the buildings. No additional storage or display of vehicles for sale will be allowed;
- c. The proposed use and design would not have a substantial adverse effect on vehicular (including bicycle) or pedestrian circulation or safety, on transit accessibility, on the planned level of service of the street system or on other public facilities or services because the proposed use is being proposed in an existing facility where points of ingress-egress are properly located and sufficient on-site parking is available;
- d. The proposed use would no have a substantial adverse economic effect on nearby uses because indoor automotive retail sales by appointment, in conformance with the zoning regulations, have not been found to have an adverse effect on nearby uses or on the general welfare of persons residing in the community because there are no nearby residences on the west side of I-880;
- e. The proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity, the neighborhood or the community at large because the indoor automotive sales is adequately located within the existing facility, on a developed site, which has been designed in a manner to be compatible with the surrounding land uses.

CONDITIONS OF APPROVAL:

General Conditions:

- A-1 The proposed use for indoor retail sales of vehicles shall be operated in conformance with Exhibit “A” (Site Plan and Floor Plan).
- A-2 Any exterior signage shall comply with the provisions of Fremont Municipal Code Title VIII, Chapter 2, Article 21 Sign Regulations and permits shall be obtained through the Development Service Center.

- A-3 The applicant shall defend, indemnify, and hold harmless the City or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul the approval of the project when such claim or action is brought within the time period provided for in applicable state and /or local statutes. The City shall have the option of coordinating the defense. Nothing contained in this condition shall prohibit the City from participating in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.

Ongoing Conditions:

- A-4 Sales transactions, display and storage of vehicles for sale shall be located entirely indoors and within the area specified for its use delineated on Exhibit "A". *Required ingress and egress corridors/paths around the display vehicles shall be kept clear at all times.*
- A-5 The operator may display up to five vehicles in the building. Each vehicle shall be provided a standard size parking stall, not less than nine feet by nineteen feet.
- A-6 The area adjacent to the designated display area for the sale of vehicles must be maintained for the purpose of ingress and egress.
- A-7 The sales of commercial related vehicles, vehicles exceeding one and one-half ton capacity, or motor homes and recreational vehicles shall be prohibited.
- A-8 No automotive retail sales or its related appurtenances (such as "for sale" signs, price marking on vehicles and banners) shall be allowed outside the building. The proposed automotive retail sales business shall be limited to the area inside the facility, as delineated on Exhibit "A".
- A-9 All automotive sales shall be made by an appointment basis only; no auctions or outdoor-related sales shall be allowed.
- A-10 The applicant shall have a key box (Knox brand) located outside of buildings/gates and provide keys to the Fire Department so they may gain access. Applications can be obtained at Fire Administration Office, 3300 Capitol Avenue, Fremont.
- A-11 Interior tenant improvements, if any, shall be subject to review and approval by the City's Building Department.
- A-12 The hours of operations shall be limited to 8:30 a.m. to 5:30 p.m. seven days a week, but only by appointment.
- A-13 Municipal solid waste (MSW) collection service is required for all occupied properties, and is provided by Allied Waste Services (AWS) on an exclusive franchise basis. All commercial garbage service containers, including compactors, must be serviced at least once a week.

Modification and Revocation of Use Permit:

A-14 This Zoning Administrator Permit is subject to modification or revocation by the Zoning Administrator or City Council at such time as any of the following conditions are found to exist:

- a. Conditions of Approval have not been fulfilled;
- b. The use has resulted in a substantial adverse effect on the health and/or general welfare of users of adjacent or proximate property; or
- c. The use had resulted in a substantial adverse impact on public facilities or services.

END OF CONDITIONS